

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)
AMERICAN WATER COMPANY FOR A) CASE NO.
QUALIFIED INFRASTRUCTURE PROGRAM) 2017-00313
RIDER)

ORDER

This matter arises upon the motion of the Lexington–Fayette Urban County Government (“LFUCG”), filed August 9, 2017, for full intervention. As a basis for its motion to intervene, LFUCG states that the application in this matter will have a significant impact on LFUCG and the citizens of Fayette County. LFUCG states that it has a special interest in this matter that will not be adequately represented by other parties.

Based on the motion to intervene and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.¹ The Court of Appeals has held that the Commission’s discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission’s discretion, with one arising under statute, the other under regulation.² The statutory

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

² *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

limitation, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”³

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find that LFUCG is a customer of Kentucky-American Water Company (“KAWC”), LFUCG is a governmental body representing citizens who make up a significant portion of KAWC’s customer base, and LFUCG is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Commission, being otherwise sufficiently advised, finds that the motion should be granted.

On August 23, 2017, the Commission entered an Order in the instant case that rejected KAWC’s application, and on September 7, 2017, KAWC filed a motion for reconsideration of the Order. The Commission finds that, pursuant to KRS 278.400, it must either grant or deny the application for rehearing within 20 days after its filing. Failure of the Commission to act within this 20-day period shall be deemed a denial of the application for rehearing. The Commission finds that LFUCG should have five days from the date of the entry of this Order in which to file a response to KAWC’s motion for

³ *Id.* at 3.

rehearing of the Commission's August 23, 2017 Order. Because of the statutory limitation on the time for reviewing KAWC's motion, the Commission finds that, per 807 KAR 5:001, Section 5(3), the Commission should order that no further pleadings on an LFUCG response should be accepted.

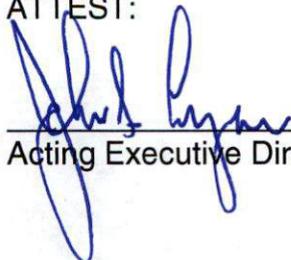
IT IS HEREBY ORDERED that:

1. The motion of LFUCG to intervene is granted.
2. LFUCG shall have five days from the date of this Order in which it may file a response to KAWC's motion for rehearing of the August 23, 2017 Order. No further pleadings on an LFUCG response shall be accepted.
3. LFUCG shall comply with the provisions of the Commission's August 23, 2017 Order.
4. LFUCG shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
5. LFUCG shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
6. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, LFUCG shall file a written statement, with a copy to parties of record, that:
 - a. Affirms that its agent possesses the facilities to receive electronic transmissions;
 - b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission

ENTERED
SEP 13 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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